

Remarks:

Claims 1-25 are pending in the current application. Claims 17 and 18 were rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 6,714,797 to Rautila (hereafter "Rautila"). Claims 1-8, 11-12, 14, and 19-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rautila in view of US Patent No. 7, 212,785 to Brassil et al. (hereafter "Brassil"). Claims 9, 10, 15, 13, and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rautila in view of well-known prior art. Claims 1, 17-23, and 25 are amended. No new matter has been added. Support for the amended language is provided in the specification and the drawings. The Applicant respectfully traverses the 102 and 103 grounds of rejection.

§102 Rejection(s):

It is respectfully noted that anticipation of claims using a drawing requires that "the picture must show all the claimed structural features and how they are put together" and "[t]he drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art." MPEP § 2125. Furthermore, anticipation of a claim under 35 U.S.C. § 102 (a), (b) and (e) requires that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," that "[t]he identical invention must be shown in as complete detail as is contained in the ... claim" and "[t]he elements must be arranged as required by the claim." MPEP § 2131. Since Rautila fails to disclose at least one of the recited elements in the amended claims, a rejection under §102 would be improper.

Claim 17, as amended, recites a method for communicating with a wide area network comprising "generating a first short-range radio message including a first address and a first port number for the wide area network, by a first terminal, in a short distance wireless network; receiving, by way of a wireless device, the first short-range radio message; determining whether the device is attached to the first port number; generating a signal, by way of the device, requesting a first service from the wide area network responsive to the first short-range radio message; generating a second short-range radio message including a second address and a second port number for the wide area network, by a second terminal, in a short distance wireless network; receiving, by way of the device, the second short-range radio message; determining

whether the device is attached to the second port number; generating a signal, by way of the device, requesting a second service from the wide area network responsive to the second short-range radio message; and allowing a plurality of terminal devices to connect to the short distance wireless network, by way of the device, to concurrently obtain the first service and the second service from the wide area network, wherein the short distance wireless network is capable of being simultaneously attached to the wide area network using the first address and the second address.”

Rautila discloses a method, system, and computer program for ordering, paying for, and downloading digital products to a mobile device in a cost-effective manner. The mobile device includes a short range transceiver and a network transceiver. The mobile device accesses electronic shop server web sites which contain digital products for sale and hotspot network locations where these digital products may be downloaded to the mobile device via the mobile device's short range transceiver. The hotspot network locations contain a hotspot device for transmitting the digital products to the mobile devices via the low-power radio frequency signal of the short range transceivers when the mobile device has detected the low power frequency signal. A user of the mobile device may download large amounts of digital data without incurring telephone or cellular phone charges. See *Rautila*, Abstract (entire), column 2, lines 56-67, and column 3, lines 1-38.

It is respectfully submitted that Rautila fails to disclose all of the elements recited in claim 17. That is, Rautila fails to disclose any of the elements and relationships enumerated below: “(1) generating a first short-range radio message including a first address and a first port number for the wide area network, by a first terminal, in a short distance wireless network; (2) generating a signal, by way of the device, (3) requesting a first service from the wide area network responsive to the first short-range radio message; (4) generating a second short-range radio message including a second address and a second port number for the wide area network, by a second terminal, in a short distance wireless network; (5) generating a signal, by way of the device, requesting a second service from the wide area network responsive to the second short-range radio message; and (6) allowing a plurality of terminal devices to connect to the short distance wireless network, by way of the device, to (7) concurrently obtain the first service and

the second service from the wide area network, wherein (8) the short distance wireless network is capable of being simultaneously attached to the wide area network, by way of the device, (9) using the first address and the second address.”

In particular, Rautila is directed to a method, system, and computer program where a user of a mobile device may download large amounts of digital data from an electronic shop server using a hotspot network without incurring telephone or cellular phone charges. Thus, Rautila teaches away from using a wide area network (e.g., cellular network) to download digital products. See *Rautila*, Abstract (entire), column 2, lines 56-67, and column 3, lines 1-38. Additionally, the mobile device in Rautila is a direct terminal to an electronic shop server for the downloading of digital products. See *Rautila*, column 4, lines 13-16. Claim 17, on the other hand, recites “the short distance wireless network is capable of being simultaneously attached to the wide area network, by way of the device.” In other words, the device acts as an intermediary to attach the short distance wireless network to the wide area network. See also Specification page 7, lines 25-29 and page 8, lines 1-12.

§103 Rejection(s):

Applicants respectfully traverse the Examiner’s rejection. MPEP §2143 provides:

“To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.”

Rautila and Brassil, either alone or in combination, fail to teach or suggest all the respective claim limitations recited in amended claims 1, 17, 22, 23, and 25. With respect to claim 1, Rautila fails to disclose “a memory capable to store a software component for simultaneously attaching a short distance wireless network to a wide area network having a first address providing a first service and a second address providing a second service; and a processor, coupled to the memory, capable of allowing a plurality of terminal devices to connect to the short distance wireless network, by way of the device, to concurrently obtain the first

service and the second service from the wide area network, wherein the short distance wireless network is capable of being simultaneously attached to the wide area network, by way of the device, using the first address and the second address.”

With respect to claim 17, Rautila fails to disclose “generating a first short-range radio message including a first address and a first port number for the wide area network, by a first terminal, in a short distance wireless network; generating a signal, by way of the device, requesting a first service from the wide area network responsive to the first short-range radio message; generating a second short-range radio message including a second address and a second port number for the wide area network, by a second terminal, in a short distance wireless network; generating a signal, by way of the device, requesting a second service from the wide area network responsive to the second short-range radio message; and allowing a plurality of terminal devices to connect to the short distance wireless network, by way of the device, to concurrently obtain the first service and the second service from the wide area network, wherein the short distance wireless network is capable of being simultaneously attached to the wide area network, by way of the device, using the first address and the second address.”

With respect to claim 22, Rautila fails to disclose “receiving, by way of a wireless device, a plurality of short-range radio messages, from a respective plurality of terminals, in a short distance wireless network for a plurality of respective services in the wide area network; and attaching simultaneously to the respective services, by way of the device, responsive to the plurality of requests.”

With respect to claim 23, Rautila fails to disclose “a first wireless device comprising a first transceiver to communicate with the wide area network; and a memory, coupled to the first and second transceivers, to store a software component to simultaneously transfer a plurality of packets to the first address and the second address responsive to the first and second short-range radio messages.”

With respect to claim 25, Rautila fails to disclose “a second software component to provide a communication signal in a wide area network; and a third software component to

simultaneously transfer a plurality of packets between the short distance wireless network and the wide area network, by way of a device, responsive to a first short-range radio message including a first address and first port number and a second short-range radio message including a second address and a second port number.”

Not only does Rautila fail to disclose all of the respective elements of claims 1, 17, 22, 23, and 25, Rautila also teaches away from them. As provided earlier, Rautila is directed to a method, system, and computer program where a user of a mobile device may download large amounts of digital data from an electronic shop server using a hotspot network without incurring telephone or cellular phone charges. Thus, Rautila teaches away from using a wide area network (e.g., cellular network) to download digital products. See *Rautila*, Abstract (entire), column 2, lines 56-67, and column 3, lines 1-38. Additionally, the mobile device in Rautila is a direct terminal to an electronic shop server for the downloading of digital products. See *Rautila*, column 4, lines 13-16. Claim 17, on the other hand, recites “the short distance wireless network is capable of being simultaneously attached to the wide area network, by way of the device.” In other words, the device acts as an intermediary to attach the short distance wireless network to the wide area network. See also Specification page 7, lines 25-29 and page 8, lines 1-12.

Brassil discloses a method of transferring data to a first device having a first transceiver for communicating at a first data rate over a long range and a second transceiver for communicating at a second, higher data rate over a short range. The method includes forming a coordinated short-range wireless network using the first device and at least one second device of a similar type and initiating communication between the first device and the at least one second device to establish whether the second device has data required by the first device. If the first device receives confirmation that the second device has the required data, the first device communicates with a service provider using the first transceiver to request permission to transfer the required data from the second device to the first device and transfers the required data from the second communication device to the first device after receiving the authorization, which is transmitted from the service provider to the first device. See *Brassil*, Abstract (entire) and column 1, lines 25-59.

With respect to claim 1, Brassil fails to disclose “a memory capable to store a software component for simultaneously attaching a short distance wireless network to a wide area network having a first address providing a first service and a second address providing a second service; and a processor, coupled to the memory, capable of allowing a plurality of terminal devices to connect to the short distance wireless network, by way of the device, to concurrently obtain the first service and the second service from the wide area network, wherein the short distance wireless network is capable of being simultaneously attached to the wide area network using the first address and the second address.”

With respect to claim 17, Brassil fails to disclose “allowing a plurality of terminal devices to connect to the short distance wireless network, by way of the device, to concurrently obtain the first service and the second service from the wide area network, wherein the short distance wireless network is capable of being simultaneously attached to the wide area network using the first address and the second address.”

With respect to claim 22, Brassil fails to disclose “receiving, by way of a wireless device, a plurality of short-range radio messages, from a respective plurality of terminals, in a short distance wireless network for a plurality of respective services in the wide area network; and attaching simultaneously to the respective services, by way of the device, responsive to the plurality of requests.”

With respect to claim 23, Brassil fails to disclose “a memory, coupled to the first and second transceivers, to store a software component to simultaneously transfer a plurality of packets to the first address and the second address responsive to the first and second short-range radio messages; and a second wireless device to generate the first and second short-range radio messages.”

With respect to claim 25, Brassil fails to disclose “a third software component to simultaneously transfer a plurality of packets between the short distance wireless network and the wide area network, by way of a device, responsive to a first short-range radio message

including a first address and first port number and a second short-range radio message including a second address and a second port number.”

It is respectfully submitted that Rautila cannot be combined with Brassil. Further, even if the purported combination was possible, Brassil fails to cure the deficiencies of Rautila. For instance, with regard to all the above-referenced claims, both Rautila and Brassil fail to disclose simultaneous attachment or transfer between a short range wireless network and a wide area network (for concurrent services).

While the suggestion to modify or combine references may come from the knowledge and common sense of a person of ordinary skill in the art, the fact that such knowledge may have been within the province of the ordinary artisan does not in and of itself make it so, absent clear and convincing evidence of such knowledge. *C.R. Bard, Inc. v. M3 Systems, Inc.*, 157 F.3d 1340, 1352, 48 U.S.P.Q.2d 1225, 1232 (Fed. Cir. 1998).

Here, the modification or combination proposed by the Examiner is not based on any clear and convincing evidence of a reason, suggestion, or motivation in the prior art that would have led one of ordinary skill in the art to combine the references. Rather, the reason, suggestion and motivation for the combination of references proposed by the Examiner simply is impermissible hindsight reconstruction given the benefit of Appellant’s disclosure.

The Federal Circuit has consistently held that hindsight reconstruction does not constitute a *prima facie* case of obviousness under 35 U.S.C. § 103. *In re Geiger*, 2 USPQ2d 1276 (Fed Cir. 1987). Unfortunately, the Examiner rather than pointing to what the prior art discloses and teaches as to making the suggested modification relies on assumptions and statements without any support in the record. As such, the Examiner’s statements regarding obviousness and motivation to modify are but shortcuts to a conclusion of obviousness devoid of the required analytical approach based on what is actually disclosed in the prior art.

Reliance on impermissible hindsight to avoid express limitations in the claims and setting forth unsupported hypothetical teachings to recreate the Applicant’s claimed invention cannot

establish a *prima facie* case of obviousness. Since obviousness may not be established by hindsight reconstruction, Applicants invite the Examiner to point out the alleged motivation to combine with specificity,¹ or alternatively provide a reference or affidavit in support thereof, pursuant to MPEP §_2144.03.²

Since no reasonable justification is provided in the Office Action as to how such modification or combination is possible and obviousness may not be established based on hindsight and conjecture, it is respectfully requested that the 103 grounds of rejection be withdrawn.

For the above reasons, neither Rautila nor Brassil, either alone or in combination, teach or suggest the respective elements recited in claims 1, 17, 22, 23, and 25. Therefore, it is respectfully submitted that claims 1, 17, 22, 23, and 25 are in condition for allowance. Claims 2-16, 18-21, and 24 should also be in condition for allowance by virtue of their dependence on an allowable base claim.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have expressly argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California, telephone number (310) 789-2100 to discuss the steps necessary for placing the application in condition for allowance.

¹ *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984).

² “The rationale supporting an obviousness rejection may be based on common knowledge in the art or “well-known” prior art . . . If the applicant traverses such an assertion the examiner should cite a reference in support of his or her position. When a rejection is based on facts within the personal knowledge of the examiner . . . the facts must be supported, when called for by the applicant, by an affidavit from the examiner.”

Respectfully submitted,

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Date: December 19, 2007

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